UNITED
NATIONS

E

Economic and Social
Council

Distr.
GENERAL

E/CN.19/2002/2/Add.5
8 April 2002

Original: ENGLISH

Permanent Forum on Indigenous Issues
First session
New York, 13-24 May 2002
Item 6 of the provisional agenda

REVIEW OF ACTIVITIES OF THE UNITED NATIONS SYSTEM RELATING TO INDIGENOUS PEOPLES: AN INTERACTIVE DISCUSSION

Information received from the United Nations system

OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES (UNHCR): PROTECTION OF REFUGEES WHO ARE INDIGENOUS PEOPLE

Summary

1. UNHCR's main function is to provide international protection to refugees and to find durable solutions for them. Among the world's refugees are also individuals belonging to indigenous peoples, who can no longer rely on their own State for protection. As part of its international protection mandate, UNHCR is also tasked with overseeing the implementation of international refugee instruments.

UNHCR's mandate

2. Most people can look to their own Government to guarantee and protect their human rights and security. But when a State is unwilling or unable to provide national protection to its citizens, people may be forced to flee to seek safety in another country. The 1951 Convention relating to the Status of Refugees defines a refugee as a person who is outside his/her own

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country "owing to a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion". UNHCR provides international protection and assistance to some 22 million people, including refugees, returnees (former refugees), internally displaced persons and stateless persons around the world.

3. The 1951 Convention was initially conceived to protect the hundreds of thousands of persons displaced during the Second World War and its immediate aftermath, and applied only to persons in Europe who had become refugees prior to 1951. Yet in the decades that followed, the refugee crisis spread throughout the world, and it became clear that an international legal framework was required to protect all refugees. A 1967 Protocol to the Convention removed the temporal and geographic limitations of the 1951 Convention, extending the Convention's provisions to all persons who fall within its definition. To date, 143 States are party to the Convention and/or its Protocol.

The link between indigenous peoples and refugees

4. Inter-ethnic and interracial tensions and conflicts have erupted in nearly every region of the world. These conflicts are often rooted in power struggles and are aggravated by socio-economic inequalities. National, ethnic and religious minority groups are often vulnerable in such situations, and indigenous peoples are among the persons who flee their countries for fear of persecution. At the same time, many indigenous communities in different parts of the world have hosted thousands of refugees seeking safety.

5. There is a relationship between human rights abuses and forcible displacement. The social, political and economic subordination of indigenous peoples in most parts of the world makes them more vulnerable to violations of human rights. In many cases they have been forced to leave their homes and land because of persecution. For example, over 200,000 Guatemalans, the majority of them indigenous peoples, left their country in the early 1980s, fleeing civil war, serious human rights abuses and a counter-insurgency campaign. Amongst the most prominent refugees in history is Nobel peace prize laureate Rigoberta Menchú, whose contribution to the cause of indigenous peoples' rights continues to set an example.

6. It is in the context of UNHCR's international refugee protection mandate that indigenous peoples as a specific group are of concern to the Office, in other words, when they constitute either an existing or potential refugee population. Special attention has been given to certain characteristics of indigenous refugees in assistance and repatriation programmes. These include the special attachment that indigenous refugees hold to their own lands and place of origin; the often cohesive socio-economic and cultural structure of the community; and the desire to maintain their own language, culture and traditions, as well as a sense of autonomy, during their stay in refugee camps and settlements.

7. UNHCR generally encourages refugees to become actively involved in the planning and implementation of assistance programmes. In many instances indigenous refugees have done so, and thus ensured that assistance and repatriation programmes suit their needs and traditions. Sometimes they have continued with their own patterns of economic livelihood, social structure and political leadership alongside those introduced by Governments or assistance agencies.

8. UNHCR, as part of the United Nations, is fully committed, in accordance with its mandate, to cooperate with the Special Rapporteur and the Permanent Forum on Indigenous Issues.

UNHCR's international protection response

9. UNHCR's primary role is to provide international protection to persons who were forced to flee their country of origin. The Office works with Governments and other actors to ensure that the international standards of refugee protection contained in the 1951 Convention, its 1967 Protocol and in various regional instruments, including the 1969 Organization of African Unity (OAU) Convention Governing the Specific Aspects of Refugee Problems in Africa and the 1984 Cartagena Declaration on Refugees, are respected. Among the most important rights UNHCR tries to protect is the fundamental right not to be forcibly returned to a territory where the refugee's life, liberty or physical safety may be threatened. The Convention also requires non-discrimination in the application of its provisions and guarantees a certain standard of treatment in relation to education, housing and employment.

10. To ensure universal application of the Convention and, therefore, the greatest protection for refugees, UNHCR also promotes accession to the 1951 Convention, its 1967 Protocol and regional refugee instruments.

11. When UNHCR is active in the country of origin, whether to conduct voluntary repatriation operations or to protect internally displaced persons under certain circumstances, it has often been engaged in specific protection and assistance activities for minority groups, including indigenous peoples. For more details on such operations, please refer to the UNHCR web site: www.unhcr.ch.

Indigenous peoples and the problem of statelessness

12. Indigenous peoples might also be affected by problems of statelessness, sometimes as a result of discriminatory nationality legislation, sometimes because of differences in nationality laws in the various States to which an indigenous group may have ties, and frequently because of misconceptions concerning what constitutes nationality.

13. Under the 1954 Convention relating to the Status of Stateless Persons, a person is "stateless" when he/she is not considered a national under the laws of any State. To be stateless is often to be unable to enjoy the array of rights that are granted without question to nationals, such as the rights to education, work, travel and health care. UNHCR acts as an intermediary between States and stateless persons in securing the standards of treatment for stateless persons set forth in the 1954 Convention and in urging States to provide or maintain nationality for persons who would otherwise be stateless through the provisions of the 1961 Convention on the Reduction of Statelessness. Unfortunately, as of January 2002, only 54 States were party to the 1954 Convention and only 26 were party to the 1961 Convention.

14. UNHCR's activities to prevent and reduce the incidence of statelessness include promoting accessions to the two conventions on statelessness and providing technical and advisory services to States on their nationality legislation and practice. UNHCR assists stateless persons by verifying whether they are, indeed, stateless and working with national authorities to resolve their legal status.

Human rights and peace education

15 Providing human rights and peace education to refugees is one way of reducing racial and ethnic tensions and thereby preventing human rights abuses and refugee flows. UNHCR has a very comprehensive peace education programme for both formal schools and non-formal (community) education. It is currently operating in seven countries in Africa with several other countries undertaking the preliminary work to start the programme. The programme concentrates on the skills and behaviours associated with constructive non-violent behaviour as a way of dealing with problems before they become conflicts. Currently more than 200,000 schoolchildren have access to the programme, either through standard classes each week or through extra-curricular activities. In addition, more than 1,000 youth and adults undertake the community programme each month in each of the seven countries. The UNHCR programme has recently become an inter-agency one through the Inter-Agency Network for Education in Emergencies (INEE). It is hoped that this kind of programme will foster respect for the human rights of all persons and in this way contribute to minimizing the violence associated with refugee flows.

Further information and contacts

16. The headquarters of the Office of the United Nations High Commissioner for Refugees is in Geneva and UNHCR offices are found in most countries around the world. Addresses of UNHCR country offices can be found on the UNHCR web site: www.unhcr.ch. The web site also contains an extensive database, called REFWORLD, which contains international and national legal texts related to refugees, as well as other documentation.

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